

Résumé du contenu/English Summary

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Volume 14, numéro 2, 1981

Libération conditionnelle : évolution et application (1899-1981)

URI : <https://id.erudit.org/iderudit/017145ar>

DOI : <https://doi.org/10.7202/017145ar>

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Éditeur(s)

Les Presses de l'Université de Montréal

ISSN

0316-0041 (imprimé)

1492-1367 (numérique)

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Citer ce document

Crelinsten, D. (1981). Résumé du contenu/English Summary. *Criminologie*, 14(2), 103–105. <https://doi.org/10.7202/017145ar>

RÉSUMÉ DU CONTENU / ENGLISH SUMMARY

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Few penal reforms, born after a long period of gestation, aroused so much enthusiasm and hope as the progressive form of individualized punishment — parole. Along with other alternatives to imprisonment, it was a remarkable example of the adaptation of the sentence to the personality of the criminal, and has been adopted in most European and North-American countries over the past 30 years. It was popular with partisans of penal reform and adherents of the philosophy of social defence, but was severely criticized by all who believed in the severity of prolonged imprisonment as a major element of general prevention. Nor were the rigorous defenders of the principle of the legality of punishment comfortable with this semi-judicial institution. It seems, in retrospect, that parole was considered a sort of test case by the antagonists in the field of penal reform, the « conservatives » being against it and the « progressives » in favour of it.

After the reformers' initial success in introducing parole and seeing it in general use in the legislation, a veritable state of siege developed in reaction to it, from its abolition (in some American states, such as Maine) to its severe limitation.

What happened? How explain its discouragement among the natural defenders of the system — the practitioners, trained in the social sciences and who work in the field? Why the defection of the legal elite who, in the past, were resolute partisans of the individualization of sentences, even the diversion of numerous penal measures? What is the explanation of this deep schism even among criminologists, for whom traditionally parole was the touchstone, the flagship, of humanistic penal reform? In the United Kingdom, one of the cradles of judicial humanism, two colleagues as distinguished as J.E. Hall Williams, of the London School of Economics, and R. Hood, of Oxford, publicly took diametrically opposed positions. The former, before the Institute for the Study and Treatment of Delinquency, gave the Parole Board his unconditional approval. The latter, before the Howard League for Penal Reforms, asked for its abolition.

The present issue attempts to clarify this mystery. In the light of the experience in Quebec, the main reasons for the success

or failure of the system are clearly illustrated. Parole being firmly established in Quebec, it is only natural for us to report the opinion of those who apply the system. We therefore largely repeat the analyses of practitioners. The contributions of Eugène, Sarrasin, Thireau and Arsenault explain the mechanisms of the system, its daily practice; they give us insight into the very life of the institution.

The president of the provincial organization and veteran of Quebec penology, Doctor Gauthier, analyzes the most contested element of the institution — the decisional process.

The articles of Précourt, Racicot and Nicolas cite the criticisms that arise, not only from the traditional adversaries of the system, but also from those who should be its natural defenders. They illustrate the disastrous consequences of the bureaucratic influence of the system over the action of its agents : the best part of the latter's time is spent in manipulating the most superficial human relationships, not through treatment but by control!

Professor Lemire, using Michel Crozier's concept of the sociology of organizations, analyzes the dilemma of « liberty/control » in the practice of parole. He presents the latter as one particular case in the general anatomy that exists on a universal scale in our largely bureaucratic post-industrial societies.

« Testimony » and « Memoranda », each in their own way, repeat the same general themes : how to be, and above all appear, just and equitable when making judicial decisions without the official guarantees normally accorded by the code of criminal procedure. How speak of « treatment », of « therapeutic relationships », if, in a situation of rigid bureaucratic control, the principal of the interested party's rehabilitation is not assured? Have we not, in the end, the worst of two worlds : the impetus and intentions of resocialization are cut short by the weight of more and more anonymous control measures that become increasingly tyrannical with the general practice of the parole system. The citizens' feeling of security, which is one of the major objectives of the criminal justice system, suffers rare, but very real disruptions because of recidivism, often due to the relative ineffectiveness of the support/control exercised by the organization.

Under these conditions, those who say that our « medicine » is given only to those who would overcome their « sickness » in

any case have a strong argument in their favour. And those who are scandalized by the arbitrariness of parole procedures with no judicial protection, are they not seemingly right when they compare the loss of the guarantees of due process with the meagre results obtained?

The reader will certainly have occasion, on reading these pages, to think about the fate of reform measures. Once they have been proposed by liberal-minded innovators, they are subject to what the French sociologist, Raymond Boudon, called « perverse effects », the non-intellectual consequences of social policy measures. These effects often distort the desired objectives; they can even turn the measure into the opposite of the initial principle intended. The history of social reform is strewn with examples of « diverted objectives ». We have only to look at the difference between the reforms in education, health and social security as they are practiced everyday and the original intention of the legislator, to say nothing of the liberal thinking of those who conceived them. If the very nature of social life is complex and unpredictable in its changes, in its evolution, it is exactly because of this interaction between the requirements of the community structures and the concept of freedom that is rooted in the conscience of every individual. We find ourselves in an inevitably moral world; the conflicts between good and bad, licit and illicit, vice and virtue are real, even though they appear more uncertain in an era of cultural change. Is it not Promethean audacity to hope that by simple psycho-social measures we can bolster the weakening willingness of man to seek his place in a world full of pitfalls, contradictions and so little that is just? It is probably this condition that is proper to man which explains the disillusionment that appears in these pages. We are sure our readers will be judicious enough, in spite of all, to find more reason for hope than for despair.